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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PETER DELVECCHIA, individually and as
next friend of A.D., a Minor,

Plaintiffs,

v.

FRONTIER AIRLINES, INC.,
SCOTT WARREN, and REX SHUPE,

Defendants.

Case No.: 2:19-cv-01322-KJD-DJA

**FIFTH STIPULATED MOTION
TO EXTEND DEADLINES**

Plaintiffs Peter DelVecchia, individually and as next friend of A.D., a minor (collectively “Plaintiffs”), and Defendants Frontier Airlines, Inc. (“Frontier”), Scott Warren, and Rex Shupe (collectively “Defendants”), each by their undersigned counsel, hereby file their **FIFTH STIPULATED MOTION TO EXTEND DEADLINES**, seeking to extend the deadlines to disclose initial and rebuttal experts, the discovery cutoff deadline, dispositive motions, and the joint proposed pretrial order set forth in this Court’s August 25, 2020 Order (ECF No. 114) by approximately 180 days each. The parties seek to extend these deadlines as follows:

- 1 • Extend the deadline to disclose initial experts from March 19, 2021 to ***September 24, 2021***;
- 2 • Extend the deadline to disclose rebuttal experts from April 30, 2021 to ***October 29, 2021***;
- 3 • Extend the discovery cutoff date from May 21, 2021 to ***November 26, 2021***;
- 4 • Extend the deadline for dispositive motions from June 25, 2021 to ***December 31, 2021***; and
- 5 • Extend the deadline to file the joint proposed pretrial order from July 23, 2021 to ***January***
- 6 ***28, 2022***.

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8 In addition to the pandemic, there are several pending issues that have limited the parties'
9 advancement of discovery in this matter. The first of those issues is that some of the documents Plaintiffs
10 have requested in written discovery and listed as subjects for inquiry at Frontier's corporate deposition
11 have been determined to be Sensitive Security Information (SSI) by the Transportation Security
12 Administration (TSA). On April 1, 2020, this Court ruled that the circumstances of this case warrant
13 designating Plaintiff Peter DelVecchia and his attorney John McKay as "covered persons" under 49 CFR
14 Part 1520.7 and required them to submit to any security background check or other procedures or
15 requirements for safeguarding SSI required by TSA. (ECF No. 76.) In accordance with this Order, Messrs.
16 DelVecchia and McKay have both submitted to background checks by TSA. TSA has also demanded that
17 the parties stipulate to an additional protective order specifically regarding SSI incorporating language
18 drafted by TSA. Plaintiffs have presented objections to certain language in the proposed SSI protective
19 order which they believe re-establishes the same procedures and non-disclosure authority at the TSA level
20 that Magistrate Judge Albregts' Order was intended to remove, and TSA has refused to alter its language
21 in response to those objections. The parties believe that it will be necessary to the resolution of this critical
22 issue to have a hearing before the Court with TSA in attendance. An extension of deadlines is needed to
23 account for the process involved in resolving SSI issues in this case.

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1 This outstanding matter with TSA has precluded the depositions of Frontier representatives
2 pursuant to Fed. R. Civ. P. 30(b)(6) since TSA must release the SSI documents discussed above to Messrs.
3 DelVecchia and McKay before Plaintiffs are able to proceed with the depositions of those witnesses. Those
4 depositions have also been delayed due to the pending objections Plaintiffs filed pursuant to Fed. R. Civ.
5 P. 72(a) to the Court's Order (ECF No. 83) on Plaintiff's Motion to Compel relating to certain document
6 requests and topics Plaintiffs wished to cover in the Fed. R. Civ. P. 30(b)(6) depositions and their request
7 to have that Order reviewed by the District Judge prior to the depositions being scheduled (ECF No. 88).
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9 The parties have been working diligently to complete fact discovery. Written discovery is ongoing,
10 subpoenas for records have issued, and 14 party and fact witness depositions have been completed to date.
11 The parties are currently working to obtain outstanding records from medical providers and other
12 institutions with damages-related information, and to schedule remaining fact witness depositions and
13 treating physician depositions, as necessary. Additionally, as more people are able to be vaccinated and
14 pandemic-related travel advisories and assembly restrictions are lifted, the parties are coordinating to
15 finalize the terms and protocols for both Plaintiffs to be examined in person pursuant to Fed. R. Civ. P. 35.
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17 Despite the parties' best efforts, in light of the impact of the pandemic and the delayed process
18 working with the TSA regarding sensitive security information, as well as the issues pending ruling by the
19 District Judge, additional time is needed to complete fact and expert discovery. Although the parties are
20 working cooperatively and as expeditiously as possible to conduct discovery and to otherwise comply with
21 the Court's Scheduling Order as previously extended, under the unusual circumstances at hand, more time
22 is required. This is the fifth motion for a continuance of pretrial deadlines filed in this case.
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1 DATED this 15th day of March, 2021

Respectfully submitted,

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4 /s/John D. McKay

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15 /s/Matthew D. Martin

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26 ***Attorneys for Defendants Frontier Airlines, Inc.,***
27 ***Scott Warren & Rex Shupe***

CERTIFICATE OF SERVICE

Pursuant to LR IC 4-1, I hereby certify that on the 15th day of March, 2021, the foregoing **FIFTH STIPULATED MOTION TO EXTEND DEADLINES** was served upon the following counsel of record *by email only*:

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IT IS SO ORDERED:

UNITED STATES DISTRICT JUDGE

DATED: _____